IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6203 OF 2006

Gopal Rajaram Shukla
since deceased through LRs
Smt.Malati Gopal Shukla & Ors. .. Petitioners.
Vs.
Ram Radhakrishna Shukla & Ors. .. Respondents.

Mr.S.S.Kanetkar for the petitioners.
Smt.Lalita Panchakshari for respondent nos.1 and 2.

CORAM : D.B.BHOSALE, J.

DATED : 18TH OCTOBER, 2006

P.C.:

. Heard learned counsel for the petitioners and respondent nos.1 and 2.

2. Mr.Kanetkar, learned counsel for the petitioners on instructions from his client states that the plaint be returned to the petitioners in view of the findings recorded by the trial Court on the point of territorial jurisdiction with liberty to the petitioners to present it before the appropriate court. Mrs.Panchakshari, learned counsel for respondent nos.1 and 2 has no objection for allowing the oral request made by Mr.Kanetkar with liberty as prayed for, however, she submits that all the contentions on merits be kept open. They both agreed

for setting aside the findings recorded by the appeal court in the order dated 24.7.2006 passed in the appeal filed by the respondent and in the judgment of the trial Court dated 21.10.2004 on all the issues except the issue of jurisdiction. The Trial Court after holding that it has no jurisdiction to decide the suit, proceeded to record findings on all the issues on merits. In the circumstances I pass the following order:

. The order impugned in the writ petition dated 24.7.2006 and the judgment and order passed by the trial Court dated 21.10.2004 in Special Civil Suit No.1106/2004 are quashed and set aside except the finding of the trial Court on the issue of jurisdiction. The plaint be returned to the petitioners to present it before the appropriate court within four weeks from the date of receipt of this order. All contentions on merits are kept open.

. With these observations the writ petition stands disposed of.

(D.B.Bhosale, J.)